



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

July 18, 1989

URGENT

OCA 2254-89

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

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STAT.

SUBJECT: ACDA draft positions regarding missile proliferation sanctions legislation.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than COB, WEDNESDAY, JULY 19, 1989. This material must be cleared before House action on the Defense Authorization bill, H.R. 2461.

Questions should be referred to Annette Rooney/Sue Thau (395-7300), the legislative analyst in this office.

*Ronald K. Peterson*

RONALD K. PETERSON for  
Assistant Director for  
Legislative Reference

Enclosures

cc: J. Ashford  
D. Taft  
S. Dotson

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**UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**

Washington, D.C. 20451

July 17, 1989

MEMORANDUM FOR JAMES C. MURR  
ASSISTANT DIRECTOR FOR LEGISLATIVE AFFAIRS  
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: MISSILE PROLIFERATION SANCTIONS LEGISLATION

We understand that missile proliferation sanctions provisions are included among the proposed amendments to the Defense Authorization legislation. The Administration has not yet taken a position on statutory sanctions related to missile proliferation. The pending sanctions provisions now require immediate attention to this issue.

Attached for your consideration is a draft proposed Administration position on missile proliferation sanctions legislation. These points apply to both the Berman bill (H.R. 963) and the Bingaman bill (S. 1227).

We ask that you obtain the views of other relevant agencies on this draft position before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

*William Shepard*  
William Shepard

Director, Office of Congressional Affairs

Attachment:  
As stated

DRAFT ADMINISTRATION POSITION ON  
MISSILE PROLIFERATION SANCTIONS LEGISLATION

The Administration opposes missile proliferation sanctions legislation for the following reasons.

1. Sanctions legislation is inconsistent with the Missile Technology Control Regime (MTCR).

The MTCR is a voluntary agreement under which adherents reserve the right to approve exports that other partners might deny. No single partner has the right to establish denial standards binding on the others.

2. It is likely to prompt unilateral reinterpretations by MTCR partners.

Our partners will argue, with some justification, that if the US is free to establish sanctions against their firms in disregard of their views, they have equal freedom to decide questions of direct concern to them.

3. It will deter others from adhering to the MTCR.

If the sanctions apply to the firms of our MTCR partners, other candidates for adherence will be repelled. Hence the goal of expanding the MTCR will be frustrated.

4. It is likely to affect adversely the cooperation already achieved.

Foreign governments will view the unilateral determination by the US that a violation of the MTCR has occurred as an unacceptable infringement of their sovereignty. Their willingness to cooperate with the US in strengthening and enforcing the MTCR will be adversely affected.

5. It may harm existing and future programs of cooperation.

Sanctions would not allow sufficient evaluative judgments to be made to balance our missile nonproliferation interests with promoting defense technology and procurement cooperation with our allies if their commercial firms should be suspected of actions inconsistent with the MTCR.

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6. It is unlikely to accomplish the intended goal.

The efficacy of US sanctions is doubtful as a means to coerce improved behavior by other exporters. Absent a US monopoly on the items or technologies in question, seeking the cooperation of our partners is a preferable alternative, especially given the broad discretion they have under the MTCR. (C)

7. The effect on US firms may be largely redundant.

Violations of the Arms Export Control Act already entail severe criminal penalties and statutory debarments from export privileges.